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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,211	07/22/2003	Timothy R. Oury	39554-P002US	7064
7590	12/02/2004		EXAMINER	
Ross Spencer Garsson Winstead Sechrest & Minick P.C. P.O. Box 50784 Dallas, TX 75201			LEGESSE, NINI F	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

07

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/624,211	OURY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nini F. Legesse	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 August 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-10 and 13-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 2-10 and 13-22 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date, _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

**Applicant's response to the Office Action of 05/20/04 is acknowledged on 08/23/04.**

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**Claims 2-9 and 13-24** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-22 of U.S. Patent No. 10/624,210 in view of Harvanek (US Patent No. 5,542,126).

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims as recited in copending application fail to teach a visual alignment feature defining a line. On the other hand Harvanek teaches the use of a visual alignment feature defining a line as stated in claim 2 (please refer to reference number 42 in Fig. 2 and also see Fig. 14). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Odom device

with a reference line as taught by Harvanek in order to instruct a golfer the proper hand placement of his/her hands about a golf club.

This is a provisional obviousness-type double patenting rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2-9 and 13-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Odom (US Patent No. 4,665,565) in view of Harvanek (US Patent No. 5,542,126).

**With regards to claims 2 and 3,** Odom shows a first glove (10) having a first attachment feature (34) on a glove surface area above the thumb (see Fig. 2). Odom discloses a second attachment feature (28) on the second golf glove (10'); and wherein the first and the second attachments are mated in use (see Fig. 4). Please note that left and right hand gloves illustrated in Figs. 1 and 2 are mirror images of each (column 2, lines 31-39). Odom discloses the invention as recited above but fails to show a visual alignment feature defining a line. On the other hand Harvanek teaches the use of a visual alignment feature defining a line as stated in claim 2 (please refer to reference number 42 in Fig. 2 and also see Fig. 14). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Odom device

with a reference line as taught by Harvanek in order to instruct a golfer the proper hand placement of his/her hands about a golf club.

**With regards to claim 4**, item 28 on the first glove surface is considered as first location feature for locating the golf club shaft (see Fig. 3).

**With regards to claims 5**, item 36 on the first glove above and adjacent to a top surface of an index finger as shown on Fig. 2 is considered a third attachment feature.

**With regards to claims 6**, item 26a that is present on both 1<sup>st</sup> and 2<sup>nd</sup> glove elements is considered as a fourth attachment feature that is above and adjacent to a palm surface of a little finger of the second golf (see Fig. 3).

**With regards to claim 7**, the Odom's device is obviously capable of performing the stated function (see Fig. 4).

**With regards to claims 8 and 9**, Odom discloses attachment features consisting a hook and loop attachment system (see column 1, lines 45-50).

**With regards to claims 13-24** they are directed to the obvious method steps of using the Odom's device as modified above.

**Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 2 above, and further in view of Figs. 5-6 showing different embodiment in the same Odom reference.

The phrase "attachment feature" as recited in the claim is a very broad term. In as much structure set forth by applicant in the claim, any part of Odom's glove could be considered as an "attachment feature". As disclosed above, most of the claims

recitations are met with the first embodiment of the Odom's invention. However, the claim limitation as recited in claim 10 is not met with the first embodiment of the Odom's invention as shown in Figs 1-4. The 1<sup>st</sup> embodiment of Odom fails to teach the use of a fifth attachment feature on a grip of the golf club. On the other hand, if one modifies the 1<sup>st</sup> embodiment of Odom to include the 2<sup>nd</sup> embodiment features of Odom (the golf club grip element 42 and/or 44), the limitation of claim 10 would be met. Please note that part of item 28 from the 1<sup>st</sup> embodiment will be capable of interacting with club grip element 42 of the 2<sup>nd</sup> embodiment. This grip element 42 and/or 44 in the 2<sup>nd</sup> embodiment of the Odom's reference can be considered as a fifth attachment feature on a grip. The first embodiment teaches the use of attachments for interlocking union of a golfer's hands while the second embodiment teaches the use of attachments for the interlocking union of the golfer's hands to the club shaft. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the first embodiment of Odom with a golf grip attachment feature as taught in the second embodiment (see Fig. 5-6) in order to provide a multipurpose device that serves to firmly secure the golfer's selected hand grip in proper positions to one another and at the same time firmly unite the hands to the golf club eliminating any release of the golf club during the golf swing.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (703) 605-1233. The examiner can normally be reached on 9:30 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vidovich Greg can be reached on (703) 308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Nini F. Legesse

11/23/04